

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

REBECCA BROWN, *et al.*,

*Plaintiffs,*

v.

Civil Action No. 2:20-cv-64-LPL

TRANSPORTATION SECURITY  
ADMINISTRATION, *et al.*,

*Defendants.*

**JOINT MOTION FOR EXTENSION OF CURRENT DISCOVERY PERIOD**

Plaintiffs and Government Defendants jointly move for an extension of the current phase of class and merits fact discovery. The current phase of discovery is scheduled to close by September 30, 2021, and a telephone status conference is scheduled between the parties and Magistrate Judge Lenihan on October 4, 2021 at 2:00 pm to discuss deadlines and parameters for the remainder of discovery. For the reasons stated below, the parties agree that an extension of the current deadline is required. The parties propose March 31, 2022 as the new date for closing this phase of discovery, with a telephone status conference the following week, on April 5, 2022 or as the Court's schedule permits.

1. On April 20, 2021, the parties filed their joint Rule 26(f) report. *See* Dkt. 83. In the report, Plaintiffs identified six categories of documents and information they deem relevant to both class and merits discovery, while Government Defendants contended that discovery should be significantly more limited. Dkt. 83 ¶ 9. Plaintiffs' position was that class and merits fact discovery should be completed by April 22, 2022. Dkt. 83 ¶¶ 10, 11. Government Defendants' position was that merits discovery should be completed by September 30, 2021 and class discovery by December 30, 2021. Dkt. 83 ¶¶ 10, 11.

2. The Court held an initial scheduling conference on April 22, 2021 and issued an initial scheduling order the same day. *See* Dkt. 86. The Court ordered that “[b]y September 30, 2021 the parties shall complete class and merits discovery on the topics identified in (1), (2), (6) and the policy portions of (5) as described in Plaintiffs’ position in paragraph 9 of the parties’ 26(f) Report at ECF No. 83.” Dkt. 86 ¶ 4. The Court also scheduled a telephone status conference for October 4, 2021 at 2:00 pm, at which “a deadline and parameters will be set for the remainder of discovery as outlined in (3), (4) and the remainder of (5) of Plaintiffs’ position in paragraph 9 of the parties’ 26(f) Report at ECF No. 83.” Dkt. 86 ¶ 5.

3. At Government Defendants’ request, because their deadline to file an answer had been extended (by consent motion) by 30 days to May 13, 2021, *see* Dkt. 81, Plaintiffs agreed in the 26(f) report to extend the parties’ deadline for initial disclosures from April 26, 2021 to May 14, 2021. Dkt. 83 ¶ 7. The parties agreed to another extension of the initial disclosures deadline, to May 28, 2021.

4. Plaintiffs served separate requests for production on TSA Defendants and DEA Defendants on June 17, 2021. TSA Defendants served their objections and responses on July 20, 2021 and completed their productions on July 30, 2021 (approximately two weeks after the requested 30-day deadline for those productions). DEA Defendants served their objections and responses on July 27, 2021 and completed their productions on September 10, 2021 (nearly two months after the requested 30-day deadline for those productions). The parties negotiated an attorneys-eyes-only protective order to simplify the production of much of the material responsive to Plaintiffs’ requests to DEA Defendants, *see* Dkt. 90, which the Court entered on September 1, 2021. *See* Dkt. 91.

5. Plaintiffs have not yet conducted depositions because Defendants did not complete their document productions until September 10, 2021. Nor can those depositions be completed by the current September 30, 2021 deadline for the close of this discovery period.

6. On September 17, 2021, Plaintiffs requested that Defendant TSA produce documents labeled “Sensitive Security Information” for attorneys-eyes-only review. TSA’s consideration of that request is governed by regulation, *see* 49 C.F.R. § 1520.15(e), and the parties are currently unsure how long it will take to resolve that request.

7. Plaintiffs have also identified various deficiencies in both TSA Defendants’ and DEA Defendants’ responses and productions, including the agencies’ withholding of certain categories of requested documents in their entirety, in deficiency letters provided to the federal Defendants on September 24, 2021. In Plaintiffs’ view, it appears likely that the parties will be unable to resolve at least some of their discovery disputes without briefing and resolution by the Court. Federal Defendants take no position on the alleged deficiencies until after a reasonable opportunity to review Plaintiffs’ written concerns.

8. For all of these reasons, the parties agree that the close of the current phase of discovery should be extended. Accordingly, the parties respectfully request that the Court:

- a. Extend the deadline for the close of the current phase of class and merits fact discovery, from September 30, 2021 to March 31, 2022.
- b. Vacate the telephone status conference scheduled for October 4, 2021 and reset it to April 5, 2022, or at the Court’s convenience thereafter, to address deadlines and parameters for the remainder of discovery.

Dated: September 24, 2021

/s/ Dan Alban

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Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that on September 24, 2021, a true and correct copy of the foregoing document was filed electronically with the Clerk of Court using the CM/ECF System, which will send a notice of electronic filing to all counsel of record.

/s/ Dan Alban